

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA** : **CRIMINAL NO.** \_\_\_\_\_  
**v.** : **DATE FILED:** \_\_\_\_\_  
**MICHAEL J. SYMONS** : **VIOLATIONS:**  
: **18 U.S.C. § 657 (unlawful misapplication of**  
: **credit union funds by an employee - 1 count)**  
: **26 U.S.C. § 7206(1) (filing false tax return -**  
: **1 count)**  
: **Notice of forfeiture**

**INFORMATION**

**COUNT ONE**

**THE UNITED STATES ATTORNEY CHARGES THAT:**

At all times material to this information:

1. The Northampton-Carbon County Federal Credit Union (“Nor-Car”) was a federally insured financial institution in that its accounts were insured by the National Credit Union Administration (“NCUA”). Nor-Car’s principal place of business was located at 2804 William Penn Highway in Easton, Pennsylvania. Nor-Car also had a branch office at 430 South Seventh Street in Lehigh, Pennsylvania. Nor-Car was liquidated by the NCUA in September 2004 due to insolvency.

2. Nor-Car was a member of and maintained an account at the Mid-Atlantic Corporate Federal Credit Union (“Mid-Atlantic”), a federally chartered corporate credit union located at 1201 Fulling Mill Road in Middletown, Pennsylvania.

3. Defendant MICHAEL J. SYMONS was the President and Chief Executive Officer of Nor-Car from in or about 1989 until in or about November 2003, and as such, was

responsible for all aspects of the credit union operation, including reconciling the accounts, maintaining the books and records, managing the Mid-Atlantic account, preparing the required financial reports, and reporting to the Board of Directors. The reconciliations and financial reports prepared by defendant SYMONS were presented to and relied upon by the NCUA and Nor-Car's Board of Directors.

5. Defendant MICHAEL J. SYMONS had a financial and/or ownership interest in a construction and paving business that operated under the names PAN Construction Company, PAN Companies, Inc., and Arcadia Group, Inc., d/b/a PAN Paving (hereinafter collectively referred to as "PAN"), all of which maintained various accounts with Nor-Car.

6. From in or about 1998 through in or about October 2003, in the Eastern District of Pennsylvania, and elsewhere, defendant

**MICHAEL J. SYMONS,**

being an employee of Nor-Car, the deposits of which were insured by the NCUA, knowingly embezzled, abstracted, purloined and willfully misapplied approximately \$1.8 million belonging to and intrusted to the care of Nor-Car, as follows:

7. Defendant MICHAEL J. SYMONS fraudulently transferred to the PAN companies a total of approximately \$1,762,799.96 in Nor-Car funds.

8. Defendant MICHAEL J. SYMONS fraudulently converted to his own use Nor-Car funds totaling approximately \$84,455, which he used for personal and other improper purposes.

9. Defendant MICHAEL J. SYMONS concealed this fraudulent activity by creating false entries, or failing to record the activity, in Nor-Car's general ledger accounts, and by falsifying the reconciliations of Nor-Car's Mid-Atlantic account so that it appeared that the

account was balanced when it was not.

10. From 1998 through 2002, defendant MICHAEL J. SYMONS fraudulently transferred to the PAN companies approximately \$670,877.06 in Nor-Car funds by crediting approximately 387 PAN checks, when defendant SYMONS knew that the PAN accounts lacked the funds to cover these checks. Defendant SYMONS did not record these transactions in Nor-Car's books, but instead maintained a subsidiary ledger of the unfunded checks.

11. Defendant MICHAEL J. SYMONS fraudulently transferred into various PAN accounts Nor-Car funds totaling approximately \$660,342.00 by creating false entries showing that the PAN companies had deposited the funds, when defendant SYMONS knew that no such deposits had been made.

12. On or about June 3, 2003, defendant MICHAEL J. SYMONS fraudulently used Nor-Car funds to pay a third-party debt of the PAN companies by issuing a Nor-Car check in the amount of \$200,000 to "Alleghany Surety Company" to pay for a construction bond on PAN's behalf.

13. From in or about November 1996 through in or about June 2000, defendant MICHAEL J. SYMONS fraudulently used Nor-Car funds to make payments totaling approximately \$174,424.96 on a home equity loan held by the PAN Companies, and payments totaling approximately \$40,480.00 on a mortgage loan held by P. N., a person known the United States Attorney, who was a principal and owner of the PAN Companies. Defendant SYMONS did not record these checks in Nor-Car's books.

14. On or about July 21, 1998, defendant MICHAEL J. SYMONS fraudulently used Nor-Car funds to pay a personal expense, by issuing a Nor-Car check in the amount of \$2,600 to the Massanutten Military Academy, where defendant SYMONS was

chairman of the Board of Trustees. Defendant SYMONS did not repay this money to Nor-Car.

15. On or about January 25, 2000, defendant MICHAEL J. SYMONS fraudulently used Nor-Car funds to pay a personal expense by issuing a Nor-Car check in the amount of \$500 to a Fannie-Mae investment held by defendant SYMONS. Defendant SYMONS did not repay this money to Nor-Car.

16. On or about January 25, 2000, defendant MICHAEL J. SYMONS fraudulently used Nor-Car funds to pay a personal expense by issuing a Nor-Car check in the amount of \$1,000 to a Bank of New York investment held by defendant SYMONS. Defendant SYMONS did not repay this money to Nor-Car.

17. In or about May 1999 through in or about September 1999, defendant MICHAEL J. SYMONS fraudulently used Nor-Car funds for improper purposes by issuing checks totaling approximately \$42,465 on the Nor-Car accounts payable dormant account, which contained only those funds that were escheatable to the state by virtue of abandonment, and used those checks for various improper purposes. Defendant SYMONS did not repay this money to Nor-Car.

18. On or about August 31, 1999, defendant MICHAEL J. SYMONS fraudulently used Nor-Car funds by issuing a check in the amount of \$6,340.91 to Mauch Chunk Trust Company to pay a mortgage obligation of W.M., a person known to the United States Attorney. Neither defendant SYMONS nor W.M. repaid this money to Nor-Car.

19. On or about September 14, 1999, defendant MICHAEL J. SYMONS fraudulently used Nor-Car funds to pay a personal expense by issuing a Nor-Car check in the amount of \$615 to Travelers Insurance in connection with a personal account defendant

SYMONS held with Travelers. Defendant SYMONS did not repay this money to Nor-Car.

20. On or about October 8, 1999, defendant MICHAEL J. SYMONS fraudulently used Nor-Car funds to pay a personal expense by issuing a Nor-Car check in the amount of \$1,400 check to Nazareth National Bank, in connection with a personal account defendant SYMONS held with the Bank. Defendant SYMONS did not repay this money to Nor-Car.

21. In or about March 1999 through in or about October 1999, defendant MICHAEL J. SYMONS fraudulently used Nor-Car funds for improper purposes by issuing checks totaling approximately \$17,250 on Nor-Car's insurance premiums payable account, and used those checks for various improper purposes. Defendant SYMONS did not repay this money to Nor-Car.

In violation of Title 18, United States Code, Section 657.

## COUNT TWO

### **THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 of Count One are realleged here.
2. From on or about January 5, 2001 through on or about October 12, 2001, the PAN Companies, Inc. issued to defendant MICHAEL J. SYMONS approximately 38 checks and cash payments totaling \$41,000. The check stubs contained the notation "stock repurchase," and the transactions were recorded in the PAN Companies' records as stock purchases.
3. On or about April 15, 2002, in Philadelphia, in the Eastern District of Pennsylvania, defendant

### **MICHAEL J. SYMONS**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2001, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, which defendant MICHAEL J. SYMONS did not believe to be true and correct as to every material matter, in that the return reported total income for himself and his spouse of \$139,989.00, when, as defendant SYMONS knew, he had not included \$41,000 in additional income which defendant SYMONS had received from the PAN Companies Inc. throughout 2001, and therefore under reported his total income.

In violation of Title 26, United States Code, Section 7206(1).

**NOTICE OF FORFEITURE**

**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

1. As a result of the violation of Title 18, United States Code, Section 657, set forth in this information, defendant

**MICHAEL J. SYMONS**

shall forfeit to the United States of America any property that constitutes, or is derived from, proceeds obtained directly or indirectly from the commission of such offense, including, but not limited to, the sum of \$ 1.8 million.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982(a)(2).

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**PATRICK L. MEEHAN  
UNITED STATES ATTORNEY**